

FILE NO. A16-0491

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against MARK ALAN GREENMAN,
a Minnesota Attorney,
Registration No. 0228990.

**STIPULATION
FOR DISCIPLINE**

THIS STIPULATION is entered into by and between Susan M. Humiston,
Director of the Office of Lawyers Professional Responsibility, hereinafter Director, and
Mark Alan Greenman, attorney, hereinafter respondent.

WHEREAS, respondent has concluded it is in respondent's best interest to enter
into this stipulation,

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and
between the undersigned as follows:

1. Pursuant to the Rules on Lawyers Professional Responsibility (RLPR), the
parties agree to dispense with further proceedings under Rule 14, RLPR, and
respondent agrees to the immediate disposition of this matter by the Minnesota
Supreme Court under Rule 15, RLPR.

2. Respondent understands this stipulation, when filed, will be of public
record.

3. It is understood that respondent has certain rights pursuant to Rule 14,
RLPR. Respondent waives these rights, which include the right to a hearing before a
referee on the petition; to have the referee make findings and conclusions and a
recommended disposition; to contest such findings and conclusions; and to a hearing
before the Supreme Court upon the record, briefs and arguments.

4. Respondent's answer to the petition is due May 26, 2016, by order of the Court, dated May 6, 2016. Respondent waives his right to answer and unconditionally admits the allegations of the February 5, 2016, petition.

5. Respondent understands that based upon these admissions, this Court may impose any of the sanctions set forth in Rule 15(a)(1) - (9), RLPR, including making any disposition it deems appropriate. Respondent understands that by entering into this stipulation, the Director is not making any representations as to the sanctions the Court will impose.

6. The Director and respondent join in recommending that the appropriate discipline is a public reprimand and two-years supervised probation, if respondent seeks reinstatement, pursuant to Rule 15, RLPR. Respondent agrees to the imposition and payment of \$900 in costs pursuant to Rule 24, RLPR.

7. Respondent remains indefinitely suspended per the Court's March 4, 2015, order for discipline. *In re Greenman*, 860 N.W.2d 368 (Minn. 2015). Respondent must still comply with the terms for reinstatement set forth in the Court's March 4, 2015, order. In addition, respondent agrees that as part of any Rule 18(a)-(e), RLPR, proceedings, he shall establish that he has been sober at least six months since his February 24, 2016, discharge from in-patient treatment for alcoholism.

8. After reinstatement, if any, respondent shall be placed on supervised probation, under the following terms:

a. Respondent shall cooperate fully with the Director's Office in its efforts to monitor compliance with any probation and promptly respond to the Director's correspondence by the due date. Respondent shall provide to the Director a current mailing address and shall immediately notify the Director of any change of address. Respondent shall cooperate with the Director's investigation of any allegations of unprofessional conduct which may come to the Director's attention. Upon the Director's request, respondent shall provide

authorization for release of information and documentation to verify compliance with the terms of any probation.

b. Respondent shall abide by the Minnesota Rules of Professional Conduct.

c. Respondent shall not practice as a solo practitioner during the period of any probation.

d. Respondent shall maintain total abstinence from alcohol and other mood-altering chemicals, except that respondent may use prescription drugs in accordance with the directions of a prescribing physician who is fully advised of respondent's chemical dependency before issuing the prescription.

e. Respondent shall attend weekly meetings of Alcoholics Anonymous or other abstinence-based recovery support group or program acceptable to the Director. Respondent shall, by the tenth day of each month, without a specific reminder or request, submit to the Director an attendance verification on a form provided by the Director, which provides the name, address and telephone number of the person personally verifying the attendance. Such attendance verification shall also, upon request, be provided to the respondent's supervisor, if any.

f. Respondent shall initiate or continue current treatment by a licensed consulting psychologist or other mental health professional acceptable to the Director, and shall complete all therapy programs recommended by the therapist.

g. Respondent does not currently reside in the state of Minnesota. After reinstatement, if any, should respondent resume the practice of law in the state of Minnesota, he will notify the Director of that fact not less than 4 weeks before doing so, at which time the following additional conditions will become effective for the balance of respondent's probation:

ii. Respondent shall be supervised by a licensed Minnesota attorney, appointed by the Director to monitor compliance with the terms of any probation. Respondent shall provide to the Director the names of four attorneys who have agreed to be nominated as respondent's supervisor within two weeks from the date of the Court's order. If, after diligent effort, respondent is unable to locate a supervisor acceptable to the Director, the Director will seek to appoint a supervisor. Until a supervisor has signed a consent to supervise, the respondent shall on the first day of each month provide the Director with an inventory of active client files described in paragraph ii. below. Respondent shall make active client files available to the Director upon request.

ii. Respondent shall cooperate fully with the supervisor in his/her efforts to monitor compliance with any probation. Respondent shall contact the supervisor and schedule a minimum of one in-person meeting per calendar quarter. Respondent shall submit to the supervisor an inventory of all active client files by the first day of each month during the probation. With respect to each active file, the inventory shall disclose the client name, type of representation, date opened, most recent activity, next anticipated action, and anticipated closing date. Respondent's supervisor shall file written reports with the Director at least quarterly, or at such more frequent intervals as may reasonably be requested by the Director.

9. This stipulation is entered into by respondent freely and voluntarily, without any coercion, duress or representations by any person except as contained herein.

10. Respondent hereby acknowledges receipt of a copy of this stipulation.

11. Respondent has been advised of the right to be represented herein by an attorney but has freely chosen to appear *pro se*.

12. The attached memorandum is incorporated hereto.

IN WITNESS WHEREOF, the parties executed this stipulation on the dates indicated below.

Dated: May 20, 2016.

Susan M. Humiston
SUSAN M. HUMISTON
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
Attorney No. 0254289
1500 Landmark Towers
345 St. Peter Street
St. Paul, MN 55102-1218
(651) 296-3952

Dated: May 19, 2016.

Cassie Hanson
CASSIE HANSON
SENIOR ASSISTANT DIRECTOR
Attorney No. 0303422

Dated: May 23, 2016.

Mark Alan Greeman
MARK ALAN GREEMAN
RESPONDENT
Attorney No. 0228990
9451 El Granito Avenue
La Mesa, CA 91941
(612) 519-1477

MEMORANDUM

The gravity of respondent's misconduct, disobeying a court order and non-cooperation, warrants substantial discipline. In recommending a public reprimand and supervised probation, the Director considered that no substantial harm occurred to the client as a result of respondent's misconduct as the Eighth Circuit ultimately heard the client's appeal on the parties' briefs and reversed and remanded the district court determination, which had been adverse to the client.

The Director also considered respondent's history of alcoholism and the fact that respondent suffered from alcoholism at the time the current misconduct occurred. Specifically, respondent has suffered from alcoholism for a number of years. Respondent has undergone treatment at several in-patient and out-patient facilities over the last three years but relapsed after treatment. During the period of misconduct cited in the petition, respondent was in a period of relapse. In October 2015 respondent entered a short detox program and then entered a two-week in-patient program in November 2015. Respondent relapsed again shortly after discharge. In January 2016, respondent entered another in-patient program. Respondent completed the program and was discharged on February 24, 2016. Since this time, respondent has been residing in a sober living home and has remained abstinent along with following all aftercare recommendations from his healthcare provider.

"[A]lcoholism itself is not a defense to misconduct." *In re Anderley*, 481 N.W.2d 366, 370 (Minn. 1992). For alcoholism to qualify as a mitigating factor, "the attorney must prove by clear and convincing evidence that: (1) he is affected by alcoholism; (2) the alcoholism caused the misconduct; (3) he is recovering from alcoholism; (4) the recovery has arrested the misconduct; and (5) the misconduct is not apt to recur." *Id.*; see *In re Johnson*, 322 N.W.2d 616, 618 (Minn. 1982). Respondent is charged with passive misconduct involving non-cooperation, failure to comply with a series of court orders from the Eighth Circuit Court of Appeals, which set forth certain actions he was

required to take after his prior suspension from the practice of law, and failure to comply with the Rule 26, RLPR, requirements for a suspended attorney. Respondent alleges and the medical evidence is consistent with alcoholism having caused or exacerbated portions of respondent's passive misconduct, and as such, would mitigate the sanction to be imposed.